

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**MICHAEL SHIFERAW (01),**

**Defendant.**

**Case No. 19-20025-01-DDC**

**MEMORANDUM AND ORDER**

This matter comes before the court on the oral motion of counsel for the defendant, Michael Shiferaw, requesting a psychiatric or psychological examination of defendant's competency and his written supplement to the motion (Doc. 89). After reviewing the motion and supplement, the court finds that there is sufficient cause to believe that Mr. Shiferaw is suffering from mental disease or defect that might render him incompetent to proceed, and prevents matters from proceeding further without professional examination of Mr. Shiferaw. The court grants defense counsel's oral motion.

Though this examination will represent Mr. Shiferaw's third examination by court order, this case presents a rare combination of unusual factors. First, in May 2019, defendant's counsel asked the court to order an examination under 18 U.S.C. § 4241 which the court granted. *See* Doc. 28 and 30. Then, when Mr. Shiferaw dismissed his counsel and decided to represent himself, the court, on its own motion, ordered an evaluation under 18 U.S.C. § 4241. *See* Doc. 62 (Memorandum and Order Ordering Evaluation); Doc. 84 (Psychiatric Report) (sealed). Once the second evaluation was completed, Mr. Shiferaw rescinded his request for self-representation

and the court appointed his current counsel. Doc. 91. So, defense counsel's report that circumstances have changed convinces the court that a new evaluation is warranted.

Also, so long as a "sufficient factual basis" supports the motion and it isn't requested in bad faith, a district court must grant a defendant's motion for examination. *United States v. Hill*, 526 F.2d 1019, 1023 (10th Cir. 1975). Defense counsel's oral motion and his written supplement, *see* Doc. 89, make the required showing. And, nothing suggests bad faith.

Therefore, the court orders that defendant, Michael Shiferaw: (1) submit to a third mental examination as provided by 18 U.S.C. § 4241(b) and 4247(c); (2) be committed to the custody of the Attorney General, under the provisions of 18 U.S.C. § 4241(b), for placement in a suitable facility designated as a forensic evaluation site; (3) and be held in temporary custody of the U.S. Marshal Service, and be delivered by the Service to the designated site as directed by the Attorney General.

**IT IS THEREFORE ORDERED** that the defendant, Michael Shiferaw, be examined for mental competency to proceed. The Clerk of the Court is directed to provide notice of this Order to the United States Marshal Service.

**IT IS SO ORDERED.**

**Dated this 8th day of September, 2020, at Kansas City, Kansas.**

**s/ Daniel D. Crabtree**  
**Daniel D. Crabtree**  
**United States District Judge**